THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2711 OF 2006

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Dated: 14-02-2006

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Between

Uma Kantha Rao Chavan

S/o. Shankara Rao Chavan,

Occ: Business, R/o.3-5-476,

Vittalwadi, Hyderabad.

...PETITIONER

AND

Municipal Corporation of Hyderabad,

Rep. by its Commissioner, Tank Bund,

Hyderabad and others.

...RESPONDENTS

ORDER:

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The petitioner is aggrieved by the action of the respondents in refusing to grant sanction of plan for construction of a building in the premises bearing Municipal No.3-5-476, situated at Vittalwadi, Narayanguda, Hyderabad.

The case of the petitioner is that the he is the owner and possessor of the premises bearing No.3-5-476 situated at Vittalwadi, Narayanguda, Hyderabad. According to the petitioner, the site, in which the building in question was constructed, was purchased by him under the registered Sale Deed dated 25-10-1989 bearing document No.1989/1989 and also through a Gift settlement Deed dated 20.10.2005 bearing document No.3866 of 2005 and since then

he has been in actual physical possession and enjoyment of the same.

The petitioner states that he intended to construct a building by demolishing the existing one and he has submitted an application dated 30.11.2004 and when the respondents refused to receive the building application the petitioner forwarded the same through Registered Post Acknowledgment Due on 21.12.2005 to the first respondent. However, the respondents by letter dated 09.01.2006 informed the petitioner that as per the TSLR, the premises in question falls in T.S.No.10, Block E, Ward 61, Gagan Mahal Village and recorded as 'G' and that the permission sought by the petitioner cannot be granted. Aggrieved by the said action of the respondents, the present writ petition is filed.

Heard both sides.

The contention of the petitioner is that even assuming that the premises in question has been recorded in the Town Survey Records as Government land, the respondents are not justified in rejecting the application for grant of building permission solely on the basis of the said entry. The learned counsel for the petitioner has brought to my notice that in **HYDERABAD POTTERIES PVT. LTD v. COLLECTOR, HYDERABAD DISTRICT,** wherein it has been held that an entry in TSLR itself cannot be the conclusive proof of title or lack of it, and the decision either to grant or refuse permission cannot be taken solely on the basis of an entry made in the TLSR. It is further held that it may be one of the factors that may have to be taken into consideration along with the other material available on record, but an entry made in TLSR *per se* could not create any doubt or cloud on the right, title and interest of a person in respect of any land.

A perusal of the impugned order shows that permission sought by the petitioner for construction of the residential building was refused, solely on the ground that the entry in the TLSR shows that the said land was recorded as Government land. Hence the ratio laid down in the decision cited supra, is directly attracted and on that ground alone the order impugned is liable to be set aside.

In the circumstances, following the decision in **Hyderabad Potteries Pvt. Ltd v. collector, Hyderabad district** (1 supra), Letter No.A/11221/TPS/2005/81 dated 09.01.2006 refusing building permission to the petitioner is set aside and the respondents are directed to

consider the matter afresh without having regard to the entry made in TLSR (Town Survey Land Record) and to pass appropriate orders on the application made by the petitioner seeking permission for construction of residential building, within four weeks from the date of receipt of this order.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

February 14, 2006

DSK